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To: [Wall, Tom](#)
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Subject: WB's Draft litigation TPs
Date: Thursday, June 14, 2018 11:46:08 AM

Hi Tom,

Here are two draft litigation TPs for your consideration to send forward for next week's ODs mtg. I am aware of no other TPs that the branch has for this week.

Thanks to Chris Hunter for drafting the Deschutes TP!

Environmental Law and Policy Center's (ELPC) Litigation Regarding EPA Approval of Ohio's 2016 303(d) List

- (b) (5) [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

Status of R10's forthcoming Action on Deschutes TMDLs

- Region 10 plans to act on Oregon's Deschutes TMDL submission by June 29th, the date that EPA committed to in briefs filed with the court.
- (b) (5) [REDACTED]
- R10 program staff briefed the RA on the proposed actions in May. The RA plans to call the AAOW to discuss the Region's plans prior to the June 29th litigation-related due date.

Background

- The Washington Department of Ecology submitted the final Phase 1 Deschutes TMDL to EPA for approval on December 17, 2015. That document addresses a total of 73 waterbody-pollutant combinations, involving temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment impairments. The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1)

TMDL study area is located in south Puget in Thurston and Lewis Counties, Washington.

- On September 6, 2017, Northwest Environmental Advocates (NWEA) filed a complaint against EPA alleging violation of section 303(d)(2) of the Clean Water Act (CWA) for failure to act on the Deschutes River TMDL submission. Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal.
- As part of the ongoing litigation, EPA has stated in briefs that we will act on the Deschutes TMDL by June 29, 2018. The judge has denied EPA's motion to stay the case until June 29, but has not yet ruled on the plaintiff's motion for summary judgment, and recommended a consent decree or stipulated entry of judgment to ensure EPA action on the TMDL.